

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BERNARD WAITHAKA, on behalf of
himself and all others similarly situated,

Plaintiffs,

v.

AMAZON.COM, INC., AMAZON
LOGISTICS, INC.,

Defendants.

Case No. 2:19-cv-01320-RSM

STIPULATION AND ORDER RE:
MOTION TO COMPEL
ARBITRATION AND
SUPPLEMENTAL CLASS
CERTIFICATION BRIEFING
SCHEDULE

**NOTE ON MOTION CALENDAR:
July 19, 2022**

Plaintiff Bernard Waithaka and Defendants Amazon.com, Inc. and Amazon Logistics, Inc., by and through their undersigned counsel, jointly stipulate and request the following briefing schedule for Defendants' motion to compel arbitration and the Parties' proposal to submit supplemental briefing regarding class certification. In support of this joint stipulation, the parties state as follows:

1. Plaintiff filed a Motion to Certify Class on May 14, 2021 (ECF No. 97), Defendants filed an Opposition on July 30, 2021 (ECF No. 102) and Plaintiff filed a reply on August 13, 2021 (ECF No. 106).

2. On June 6, 2022, the Supreme Court issued a ruling in *Southwest Airlines Co. v. Saxon*, 142 S. Ct. 1783 (2022), which interpreted the exemption under section 1 of the

STIPULATION AND ORDER RE MOTION TO
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BRIEFING SCHEDULE - 1

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1 Federal Arbitration Act. Defendants intend to file a renewed motion to compel arbitration
 2 based on *Saxon*, which Plaintiff intends to oppose. Defendants believe the Court should
 3 consider this motion to compel before or concurrent with the Plaintiffs' pending Motion for
 4 Class Certification (ECF No. 97), which has been fully briefed since August 2021, because an
 5 order granting that renewed motion would moot the pending Motion to Certify.

6 3. On July 5, 2022, the Ninth Circuit issued its ruling in *Bowerman v. Field Asset*
 7 *Servs., Inc.*, No. 18-16303, -- F.4th -- 2022 WL 2433971, at *8 (9th Cir. July 5, 2022),
 8 reversing a class certification order, for which Defendants filed a Notice of Supplemental
 9 Authority on July 13, 2022 (ECF No. 130). The Parties would both like the opportunity to
 10 address *Bowerman* and any other new cases issued since the parties completed their briefing
 11 on the pending Motion for Class Certification.

12 4. The parties have met and conferred and agree on the following schedule for
 13 briefing Defendants' motion to compel and the simultaneous exchange of supplemental
 14 briefing on the impact of *Bowerman* (if any) and any other applicable new cases (if any) on
 15 the pending Motion for Class Certification, subject to Court approval:

- 16 a. Motion to compel arbitration and simultaneous 10-page supplemental
 17 briefs regarding *Bowerman* and other applicable new cases: August 11,
 18 2022;
- 19 b. Opposition to the motion to compel arbitration and simultaneous 5-
 20 page supplemental response briefs regarding class certification:
 21 September 6, 2022; and,
- 22 c. Reply in support of the motion to compel arbitration: September 16,
 23 2022.

1 Respectfully submitted July 19, 2022.

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Attorneys for Defendants

ORDER

Having reviewed the parties' Stipulation and Proposed Order Regarding Motion to Compel Arbitration and Supplemental Class Certification Briefing Schedule and good cause appearing, it is hereby ordered that:

1. Defendants' motion to compel arbitration and the parties' respective 10-page supplemental briefs regarding the impact of the *Bowerman* decision on the pending Class Certification Motion will be filed no later than August 11, 2022;
2. Any opposition to the motion to compel arbitration and the parties' 5-page supplemental response briefs will be filed no later than September 6, 2022; and,
3. Any reply in support of the motion to compel must be filed no later than September 16, 2022.

DATED this 26th day of July, 2022.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I certify that on July 19, 2022, I arranged for electronic filing of the STIPULATION AND [PROPOSED] ORDER RE: MOTION TO COMPEL ARBITRATION AND SUPPLEMENTAL CLASS CERTIFICATION BRIEFING SCHEDULE with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel in this matter.

s/ Todd L. Nunn

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STIPULATION AND ORDER RE MOTION TO
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BRIEFING SCHEDULE - 5

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